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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,947	06/25/2003	W. Perry Dowst	65841-017 (WMST-003)	3129
20874	7590	06/28/2006	EXAMINER	
WALL MARJAMA & BILINSKI 101 SOUTH SALINA STREET SUITE 400 SYRACUSE, NY 13202			PRICE, CARL D	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/603,947

Applicant(s)

DOWST ET AL.

Examiner

CARL D. PRICE

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03/28/05 (RCE) and amendment of 04/24/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 106-160 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 106-160 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **03/28/2005** has been entered.

### Response to Arguments

Applicant's arguments with respect to claims **106-160** have been considered but are moot in view of the new ground(s) of rejection.

Applicant has amended the claims to be of a scope not previously considered. Consistent with applicant's argument that the prior art relied on in the previous office action fail to show, disclose and/or teach certain aspects of applicant's invention now recited in the claims filed on **03/28/05 (RCE)** and **04/24/06**. For example, applicant has amended the claims to now include the following:

(claim 1)

“a single thermally conductive member comprising a continuous piece of material fixedly attached to and positioned adjacent to and extending continuously along the entire extent of a peripheral edge of the external bottom side and having an inner peripheral edge defining an inner diameter and an outer peripheral edge defining an outer diameter, the conductive member having a plurality of undulating protrusions extending downwardly from the external bottom side;”

The scope of the claimed invention is now addressed in the following Examiner's action where the newly discovered prior art reference of **GB000882881** is now relied on to teach placing a single thermally conductive member (15) along the entire extent of a peripheral edge of

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the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims Rejected under 35 U.S.C. 102(b)**

Claims **151-154** and **159** are rejected under 35 U.S.C. 102(b) as being anticipated by **US002154305** (of record).

**US002154305** shows a portable heating system comprising:

- a vessel (13) having a thermally conductive bottom end defining an external bottom side (31, 32, 33) of the vessel;
- a top housing (16) having a top rim (53) coupled circumferentially to the external bottom side of the vessel (at 32, 53), a side structure (54) extending downwardly from the top rim (53) and having a plurality of exhaust vents (82) formed therein, and a bottom rim (48, 51);
- a bottom housing (17) having a top rim (49, 52) configured to be selectively coupled to the top housing bottom rim (48) and containing a burner (15) having a heat outlet head disposed below the external bottom side of the vessel when the bottom housing is coupled to the top housing (see figure 8), the bottom housing further having a plurality of air inlet vents (81) formed therein;

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- wherein the bottom housing is so configured and sized as to be removable from said top housing and temporarily placed for storage in the vessel cavity (see figure 4).
- In regard to claim 152, since the diameter of the lower end rim (55) of the bottom housing (17) is less than the diameter of vessel outlet port (35) it is capable of being place in the vessel in the manner set forth in the claim.
- In regard to claims 153 and 154, the fuel source and burner are formed as a single unit and supported by and at a lower bottom housing location (i.e. –below the top rim (49)).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims Rejected under 35 U.S.C. 103(a)**

Claims 106-116 are rejected under 35 U.S.C. 103(a) as being unpatentable over US002154305 (of record) in view of GB000882881 (newly cited).

US002154305 shows a portable heating system comprising:

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- a vessel (13) having a thermally conductive bottom end defining an external bottom side (31, 32, 33) of the vessel;
- a top housing (16) having a top rim (53) coupled circumferentially to the external bottom side of the vessel (at 32, 53), a side structure (54) extending downwardly from the top rim (53) and having a plurality of exhaust vents (82) formed therein, and a bottom rim (48, 51);
- a bottom housing (17) having a top rim (49, 52) configured to be selectively coupled to the top housing bottom rim (48) and containing a burner (15) having a heat outlet head disposed below the external bottom side of the vessel when the bottom housing is coupled to the top housing (see figure 8), the bottom housing further having a plurality of air inlet vents (81) formed therein

**US002154305** shows and discloses the invention substantially as set forth in the claims with possible exception to:

- a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

**GB000882881** teaches, from applicant's same portable heater field of endeavor, placing a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

In regard to claims **106 -116**, for the purpose of making the base readily separable from the base and the base is storable within the vessel and to increase the thermal heat efficiency by confining the flow to heat about the vessel bottom, it would have been obvious to a person

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having ordinary skill in the art to modify **US002154305** to include a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side in the manner set forth in applicant's claims, in view of the teaching of **GB000882881**.

In regard to claims **111-116**, since shape of the protrusions the manner of coupling (e.g. – soldering, brazing, gluing, etc.), the height of the vessel, length of the protrusions, aspect ratio of the protrusions, etc. would depend on numerous design concerns such as the overall size and shape of both the burner and vessel, the type of substance being heat, the amount of heat intended to be transferred to the substance through the vessel wall, etc., to configure the protrusions to have dimensions and to be attached in the manner set forth in the claims, can be viewed as nothing more than merely a matter of choice in design absent the showing of any new or unexpected results produced there from over the prior art of record. Further in this regard it is noted that **GB000882881** itself teaches that elements, such as apertures 20, are of such a size “that the maximum amount of heat is absorbed by the strip 15 which is secured in intimate heat-conducting relationship with the base of the kettle” (beginning page 2, line15).

**Claims Rejected under 35 U.S.C. 103(a)**

Claims **117-149** are rejected under 35 U.S.C. 103(a) as being unpatentable over **US002154305** (of record) in view of **GB000882881** (newly cited) and **DE 33 39 848** (of record).

**US002154305** shows a portable heating system comprising:

- a vessel (13) having a thermally conductive bottom end defining an external bottom side (31, 32, 33) of the vessel;
- a top housing (16) having a top rim (53) coupled circumferentially to the external bottom side of the vessel (at 32, 53), a side structure (54) extending downwardly from the top rim (53) and having a plurality of exhaust vents (82) formed therein, and a bottom rim (48, 51);

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- a bottom housing (17) having a top rim (49, 52) configured to be selectively coupled to the top housing bottom rim (48) and containing a burner (15) having a heat outlet head disposed below the external bottom side of the vessel when the bottom housing is coupled to the top housing (see figure 8), the bottom housing further having a plurality of air inlet vents (81) formed therein.

**US002154305** shows and discloses the invention substantially as set forth in the claims with possible exception to:

- a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

**GB000882881** teaches, from applicant's same portable heater field of endeavor, placing a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side. The member comprising a continuous piece of aluminum material soldered to and positioned adjacent to and extending continuously over the bottom of a vessel (see page 2, lines 100-105).

**DE 33 39 848** teaches (figures 1 and 2), from applicant's same portable heater field of endeavor dimension the outer burner diameter to be less than the diameter of the inner central cavity formed by the thermally conductive members, for the purpose of effectively directing heat from the burner flames into and along the heat transfer passages.

In regard to claims **117-149**, for the purpose of making the base readily separable from the base and the base is storable within the vessel and to increase the thermal heat efficiency by confining the flow to heat about the vessel bottom, it would have been obvious to a person having ordinary skill in the art to modify **US002154305** to include a single thermally conductive member (15) along the entire extent of a peripheral edge of the external bottom side in the



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manner set forth in applicant's claims, in view of the teaching of **GB000882881**. Furthermore, in regard to claims **117-149**, for the purpose of effectively directing heat from the burner flames into and along the heat transfer passages, it would have been obvious to a person having ordinary skill in the art to dimension the outer burner diameter to be less than the diameter of the inner central cavity formed by the thermally conductive members, in view of the teaching of **DE 33 39 848**.

In regard to claims **122-128**, **134-139** and **145-149**, since shape of the protrusions the manner of coupling (e.g. – soldering, brazing, gluing, etc.), the height of the vessel, length of the protrusions, aspect ratio of the protrusions, etc. would depend on numerous design concerns such as the overall size and shape of both the burner and vessel, the type of substance being heat, the amount of heat intended to be transferred to the substance through the vessel wall, etc., to configure the protrusions to have dimensions and to be attached in the manner set forth in the claims, can be viewed as nothing more than merely a matter of choice in design absent the showing of any new or unexpected results produced there from over the prior art of record. Further in this regard it is noted that **GB000882881** teaches that elements, such as apertures 20, are of such a size “that the maximum amount of heat is absorbed by the strip 15 which is secured in intimate heat-conducting relationship with the base of the kettle” (beginning page 2, line15).

**Claims 156-160: Rejected under 35 U.S.C. 103**

Claims **156-158** and **160** are rejected under 35 U.S.C. 103(a) as being unpatentable over **US002154305** (of record) in view of **FR 2 446 097** (of record).

**US002154305** shows and discloses the invention substantially as set forth in the claims with possible exception to:

- an igniter portion disposed above the burner and a recess or indentation in the cover (15) for receiving or accommodate the extending igniter portion; and

- friction or slot and dimple attachment means for the upper and lower housings.

**FR 2 446 097** teaches, from applicant's same portable heater field of endeavor, providing portable collapsible heaters with burners of the type having a threaded fuel source connection located in the lower portion thereof for connection to a fuel source there below.

In regard to claim **155-158** and **160**, for the purpose of providing a suitable alternative burner and fuel source, it would have been obvious to a person having ordinary skill in the art to modify **US002154305** to include a burners of the type having a threaded fuel source connection located in the lower portion, in view of the teaching of **FR 2 446 097**. Also, Official Notice is taken that it is well known to place igniters above, that is, downstream of fuel exiting burner heads as a recognized optimal location to effect ignition of the fuel. Thus, in view of that which is well known, it would have been obvious to a person having ordinary skill in the art to provide **US002154305** with such an igniter arrangement. Regarding any necessary recess or indentation in the cover for receiving or accommodate the extending igniter portion it is noted that the covers (23, 39,40, 41) of **US002154305** is formed with such a recess capable of performing this function. In regard to claims **159** and **160**, Official Notice is taken that burner components are known to be secured by slot and dimple attachment means for (see for example **US004374489**). Thus, it would have been obvious to a person having ordinary skill in the art to modify attachment of the upper and lower housings in **US002154305** to include such well known securing and fastening arrangement.

### **Conclusion**

See the attached PTO FORM for prior art made of record that is not relied upon, which is considered pertinent to applicant's disclosure.

**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



CARL D. PRICE

Primary Examiner

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